

be discoverable, we do not believe it should be counted as one of the belated documents.²

E. Belated Documents that would not have been Discoverable

Some documents involved unrelated cases or categories of documents that were not discoverable. In some instances, the belated items were so unrelated to the OKBOMB investigation or could not reasonably be construed as “investigative” material that they should not have been disclosed to the OKBOMB defendants in 2001 and should not have been counted as belated documents. For example, material found in a Salt Lake City 1A consisted of 183 pages of items sent to the FBI by a citizen. The items included newspaper articles about the bombing and an extensive collection of song lyrics.

An example of this problem is a Portland insert that was counted as part of the second wave. The belated document was originally sent to Oklahoma City by Portland in the first wave. One of the searchers reviewing the first wave materials did not believe it should be considered as a problem document because it concerned an unrelated bank robbery and was probably only put in the Portland Auxiliary Office file for information purposes.³ However, as part of the first wave review process, on May 15, 2001, the Dallas Field Office sent 25 pages of Portland inserts back to Portland. That fax, including the insert that the first wave searcher had determined should not be considered a belated document, was sent back to Oklahoma City as part of the second wave. Because the second wave searchers were not making the same distinctions that the first wave searcher had made, the insert was considered to be a belated document.

As another example, an item somewhat similar in appearance to an insert was found in the warehouse in Oklahoma City and was construed to

² Although we did not analyze the second wave documents to the same extent that we did the first wave documents, we suspect this problem likely occurred in even more documents in the second wave. In May 2001, the field offices were sending to Oklahoma City agents’ “working files,” i.e. copies that individual agents maintained in their desks apart from the official Auxiliary Office file. Therefore, the second wave may contain many “similar but not identical” versions, such as drafts, of documents that were disclosed.

³ The suspect arrested for the robbery had in his pockets three newspaper articles about the Oklahoma City bombing.